

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MATTHEW H. BECKETT,

Plaintiff,

v.

SCALIA, *et al.*,

Defendants.

Case No. 1:20-cv-01468-JLT-CDB (PC)

**ORDER DISCHARGING ORDERS TO  
SHOW CAUSE IN WRITING WHY  
SANCTIONS SHOULD NOT BE IMPOSED  
FOR FAILURE TO OBEY COURT  
ORDERS**

(Docs. 44, 46)

**ORDER GRANTING REQUEST *NUNC  
PRO TUNC* FOR EXTENSION OF TIME**

(Doc. 45)

Plaintiff Matthew H. Beckett is proceeding pro se and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

**I. RELEVANT BACKGROUND**

On January 22, 2024, the Court issued its Order Finding Service Appropriate. (Doc. 40.) Specifically, service was to be effected on Defendants B. Hackworth, Hernandez, L. Hurtado, A. Madrigal and J. Scalia. (*Id.* at 2.) Relevant here, the California Department of Corrections and Rehabilitation (“CDCR”) was directed to file the “CDCR Notice of E-Service Waiver” form within 40 days, advising whether Defendants agreed to waive service of process without the need for personal service. (*Id.* at 3.)

1 When more than 40 days passed without a response, on March 6, 2024, the Court issued  
2 an order directing CDCR to show cause in writing, within five days, why sanctions should not be  
3 imposed for failing to comply with a court order, or, alternatively, to file a completed waiver  
4 form. (Doc. 44 [minute order].)

5 On March 7, 2024, the CDCR filed a request for a 14-day extension of time within which  
6 to file the Notice of E-Service Waiver form, noting authorization was pending as to Defendants  
7 Hackworth, Hernandez, Hurtado, Madrigal and Scalia. (Doc. 45.)

8 On March 8, 2024, the Court issued its Further Order to Show Cause (“OSC”) Why  
9 Sanctions Should Not Be Imposed for Failure to Obey Court Orders. (Doc. 46.)

10 On March 11, 2024, a Notice of Intent to Waive Service was filed as to Defendants  
11 Hackworth, Hernandez, Madrigal and Scalia. (Doc. 47.) Additionally, a Notice of Intent Not to  
12 Waive Service was filed as to Defendant Hurtado. (Doc. 48.) That same date, counsel for CDCR  
13 filed a response to the OSC. (Doc. 49.)

## 14 II. DISCUSSION

15 CDCR states it received the Court’s order regarding service on January 22, 2024, and  
16 contacted California State Prison-Corcoran the following day to confirm the named Defendants  
17 still worked there and whether CDCR was authorized to waive service on their behalf. (Doc. 49 at  
18 2.) While it is the CDCR’s practice to calendar the deadline to file a CDCR Notice of E-Service  
19 Waiver form and a reminder five days prior to the deadline, as a result of inadvertence, neither  
20 was calendared. (*Id.*) When CDCR received an order to show cause on March 6, 2024, it again  
21 contacted the institution concerning confirmation of its authority to waive service of process. (*Id.*)  
22 CDCR states it filed a request for a 14-day extension of time on March 7, 2024, in a good faith  
23 effort to comply with the E-Service Pilot Program for Civil Rights Cases, believing it would then  
24 have sufficient information to file the CDCR Notice of E-Service Waiver form. (*Id.* at 2-3.) That  
25 same date, CDCR received confirmation from the institution that three of the five Defendants  
26 would waive service, one could not be identified, and another is now employed at the Office of  
27 Internal Affairs. (*Id.* at 3.) It advises that confirmation concerning the latter Defendant’s waiver of  
28

1 service of process was received on March 11, 2024. (*Id.*) Accordingly, on March 11, 2024, CDCR  
2 filed the CDCR Notice of E-Service Waiver forms. (*Id.*)

3 CDCR contends that sanctions are unwarranted given that its failure to comply with a  
4 court order “was the result of an inadvertent calendaring mistake rather than bad faith” and given  
5 that it promptly filed the waiver forms. (*Id.*) CDCR further notes that this Court’s inherent  
6 power to sanction purportedly extends only to compensatory sanctions and that there is no  
7 indication Plaintiff has incurred any expenses as a result of the delay concerning service. (*Id.*)

8 Counsel’s assertion regarding the domain of a district court to impose sanctions is an  
9 overgeneralization. “Sanctions for civil contempt may be imposed to coerce obedience to a court  
10 order, or to compensate the party pursuing the contempt action for injuries resulting from the  
11 contemptuous behavior, or both.” *Gen. Sig. Corp. v. Donallco, Inc.*, 787 F.2d 1376, 1380 (9th  
12 Cir. 1986) (emphasis added). Consistent with this, the Court of Appeals long has affirmed the  
13 district court’s discretion to impose sanctions intended to coerce a noncompliant party into  
14 compliance with court orders. *See, e.g., Gen. Sig. Corp. v. Donallco, Inc.*, 933 F.2d 1013 (9th  
15 Cir. 1991) (affirming district court’s award of \$100,000 sanction that “was coercive and not  
16 compensatory” as “an amount required to prevent future violations”) (unpublished). Accord  
17 *Richmark Corp. v. Timber Falling Consultants*, 959 F.2d 1468, 1480 (9th Cir. 1992) (affirming  
18 district court’s imposition of daily sanctions to coerce compliance with court order). Here,  
19 however, given CDCR’s prompt response to the Court’s show cause orders, the Court perceives  
20 CDCR recognizes the importance of timely complying with all court orders and concludes no  
21 coercive sanction is necessary.

### 22 III. CONCLUSION AND ORDER

23 Accordingly, for the reasons stated above, **IT IS HEREBY ORDERED** that:

- 24 1. The Court’s show cause orders issued March 6 and March 8, 2024 (Docs. 44, 46) are  
25 **DISCHARGED**; and

2. CDCR's request for an extension of time within which to file notices of intent to either waive or not waive service (Doc. 45), is **GRANTED**.

IT IS SO ORDERED.

Dated: **March 12, 2024**

  
UNITED STATES MAGISTRATE JUDGE